IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.847 OF 2004

Narayan Jaising Dhumal).. Petitioner

Versus

The State of Maharashtra and others).. Respondents

Mr.V.N.Tayade for the Petitioner.

Mr.R.M.Patne, A.G.P., for the Respondents.

CORAM: H.L. GOKHALE AND SMT.NISHITA MHATRE, JJ.

DATED: 28TH SEPTEMBER 2004

P.C.:

1. Heard Mr.Tayade in support of this Petition. Mr.Patne, A.G.P., appears for the Respondents.

2. The Petitioner was working as a Police Constable under the first Respondent Commissioner of Police, Pune. It was alleged against him that when he was on duty near Bharati Vidyapith on 7th March 1994 he learnt that an accident had taken place between a jeep and scooter. When he went to the hospital for further enquiries, it is alleged that he used strong language to one Dr.Alka Shinde who was the Medical Officer on duty. It was further alleged that at that time he was under the influence of intoxicating material and he had stated to Dr.Shinde that the officers of Bharati Vidyapith are

over-wise. A departmental enquiry was held against him. The Enquiry Officer recommended the punishment of fine of Rs.100/-. Respondent No.2 Deputy Commissioner of Police differed with the suggested punishment and increased it to removal from service.

3. The Petitioner preferred an appeal to the Appellate Authority. The Appellate Authority looked into the record of the employee and noted that he had put in some 26 years of service by then and there were also some 28 awards in his favour. The Appellate Authority therefore reduced it to that of compulsory retirement. The Petitioner filed an Original Application No.159 of 2001 to the Maharashtra Administrative Tribunal and the Tribunal rejected the application filed by the Petitioner as also Review Application which was filed later on. It is being aggrieved by these orders that the present Petition has been filed.

4. Mr.Tayade, learned Counsel appearing for the Petitioner, submitted that the Petitioner had put in long years of good service and for this particular misconduct the punishment imposed was a harsh one. He submitted that in many other cases lighter punishments have been given in cases where there were serious allegations against the employees. He referred to a judgment of the Apex Court in the case of *State of Tamil Nadu and others*

vs. *M.Natarajan and another* reported in **AIR 1997 SC 3120** where in the case of misbehaviour with two ladies the punishment against the police officer was reduced to that of stoppage of three increments.

5. We had asked Mr.Patne, learned Assistant Government Pleader, to show us as to what were the various service entries against the Petitioner. The service record shows that undoubtedly there were good many awards given to the Petitioner. However, there were in all nine instances wherein for some misconduct or irregularity or the other the Petitioner was held guilty. These are orders passed on 15th March 1985, 19th March 1987, 10th November 1987, 4th December 1987, 2nd December 1987, 13th November 1992, etc..

6. As noted above, we have considered the submission of the Petitioner as well as looked into the record of the Petitioner. It is not disputed that the misconduct levelled against the Petitioner has not been proved. It has been held to be proved that he was under the influence of intoxicating drug and that he had used abusive language to a Medical Officer who was on duty. The Petitioner is supposed to be an employee in a disciplined force. He is a public officer. If on duty he goes in an intoxicating material and later on uses abusive language to a lady Medical Officer on duty, it is

for the officers of the police department to consider whether such person should be retained in service. In the facts and circumstances of the case, the Respondents have come to a conclusion that it will not be proper to retain him in service any longer. They have however reduced the punishment of removal to that of compulsory retirement which will enable him to avail two-third of pension and gratuity. As such he does not have much service left hereafter and we are informed by Mr.Patne that he is otherwise due to retire after about three years and four months or so at the end of January 2008. In the circumstances, we do not find any error on the part of the Respondents in passing the order of compulsorily retiring the Petitioner nor do we find any error in the decision of the Maharashtra Administrative Tribunal. Petition is therefore dismissed.

(H.L. GOKHALE, J.)

(SMT.NISHITA MHATRE, J.)